



**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**  
2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926  
TELEPHONE: (916) 263-2113  
FAX: (916) 263-2099  
E-mail: [geology@dca.ca.gov](mailto:geology@dca.ca.gov)  
Website: [www.dca.ca.gov/geology](http://www.dca.ca.gov/geology)



## **MINUTES OF THE MEETING OF THE BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

**September 12, 2003**

**2535 Capitol Oaks Drive  
Sacramento, CA 95833-2926**

### **1. CALL MEETING TO ORDER**

Craig Copelan, President, called the meeting to order at 9:00 AM.

### **2. ROLL CALL TO ESTABLISH QUORUM**

Craig A. Copelan, President  
Robert A. Matthews, Ph.D., Vice President  
William E. Black  
Claude D. Fiddler  
Jeffrey T. Schmidt

Others in attendance:

Paul Sweeney, Executive Officer  
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)  
George Dunfield, Enforcement Manager  
J. C. Isham, Chair, Legislative Committee  
Elizabeth Mathieson, Chair, Enforcement Oversight Committee  
Tracy Ferrel, DCA's Office of Examination Resources  
Seena Hoose, Technical Advisory Committee (TAC)  
Tom Crosby, TAC  
Brian Hirst, TAC  
Sara Bierl, Center for Public Interest Law  
Ted Cobb, State Water Resources Control Board  
Frank Reichmuth, North Coast Regional Water Quality Control Board  
Dave Parson, North Coast Regional Water Quality Control Board  
Marcia Kiese, CalTrans  
John Parrish, Executive Officer, State Mining and Geology Board  
Steve Reynolds, California Geological Survey  
Bill Short, California Geological Survey  
Kristin Haynie, California Association of Professional Scientists

Howard Spellman

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the  
Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California*

Roger Poff, Professional Soil Scientists Association of California  
Rick Rempel

Absent: Board Member Tom Ross

**3. APPROVAL OF THE MINUTES OF THE BOARD MEETING OF  
December 5, 2002**

**Mr. Fiddler moved to approve the minutes of the open and closed sessions of the December 5, 2002, meeting.**

**Dr. Matthews seconded.**

**The motion passes unanimously.**

**4. PUBLIC COMMENT ON NON-AGENDA ITEMS**

Buzz Spellman, representing the Southern California section of the Association of Engineering Geologists wanted to know why the Board hasn't met since December. Some professionals felt that they needed direction and that the Board was silent. Some professionals felt disturbed that the Board wasn't meeting more often.

Craig Copelan addressed Mr. Spellman's concerns by indicating that the Board had voted unanimously at the last meeting to reduce the number of meetings as a cost savings measure.

**5. ELECTION OF BOARD PRESIDENT AND VICE PRESIDENT**

**Mr. Black nominated Craig Copelan for President, and Mr. Fiddler nominated Dr. Matthews for Vice President. Jeffrey Schmidt seconded both nominations.**

There were no other nominations. Mr. Copelan and Dr. Matthews accepted the nominations. The nominations were closed.

**Mr. Copelan and Dr. Matthews were elected unanimously.**

**6. SELECTION OF NEW AND EX-OFFICIO COMMITTEE MEMBERS**

Bill Black and Jeffrey Schmidt were selected as the ex-officio members of

the Board's Examination Committee, Craig Copelan and Jeffrey Schmidt were named the ex-officio members of the Legislative Committee, and Claude Fiddler and Tom Ross were selected as the ex-officio members of

the Technical Advisory Committee.

In addition, Dr. Roy Shlemon, Tony Sawyer, and Seena Hoose were reappointed to their second (and final) three-year term on the Technical Advisory Committee. Laura Cathcart-Dodge was reappointed to her second and final three-year term on the Examination Committee, and Dr. Tom Kelty was selected as the newest Member of the Examination Committee. The Legislative Committee vacancies will be tentatively selected at the next Board Meeting.

Because Betsy Mathieson is in her last year as Chair of the Enforcement Oversight Committee (EOC), the Board directed the Executive Officer to advertise the upcoming vacancy for her position via the Board's website and other media (Dr. Matthews makes the motion, Mr. Fiddler seconds, measure passed unanimously). The Board will plan on filling the EOC vacancy position at its December 5, 2003 Board meeting so that the selected individual can attend the next EOC meeting with Ms. Mathieson on April 2, 2004.

#### **7. ADOPTION OF REVISED DISCIPLINARY GUIDELINES AND ENFORCEMENT PROCEDURES**

The Board approved the updated Disciplinary Guidelines with the additional condition from Gary Duke, Legal Counsel, to direct the Executive Officer to apply for a Section 100 (non-technical, clerical, non-substantive) regulation change for section 3064 of the Board's regulations with the Office of Administrative Law. Dr. Matthews makes the motion, Bill Black seconds, and the measure passed unanimously.

The Board's Enforcement Procedures were also approved unanimously with the amendment that Mr. Sweeney and Mr. Dunfield's names be added to the cover sheet.

#### **8. REPORT ON NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY (ASBOG) ACTIVITIES**

Dr. Matthews makes the motion, Bill Black seconds, and the measure passes unanimously to select Dr. John Williams as the Board's Voting Member, representing the State of California, at the upcoming ASBOG Annual Meeting in Jacksonville, Florida (November 1, 2003). Dr. Williams and Bob Tepel will continue to serve at their own expense on the ASBOG Council of Examiners.

Mr. Sweeney received comments on the draft letter to ASBOG that was in all of the Board packets. After much discussion, it was determined that the letter should state that the Board was against the proposed changes in ASBOG's Bylaws and Charter (voting a Member State out of ASBOG and

auditing requirements) and that the Board was requesting the last three years of submittals by ASBOG to the Internal Revenue Service (IRS) of their Form 990's (a specific requirement by the IRS for non-profit corporations).

The Board discussed the relationship between ASBOG and the Board. Claude Fiddler made a motion for the Executive Officer to write a strong letter to the President of ASBOG, Dorian Kuiper, indicating the position of the Board with regard to issues with ASBOG. Dr. Matthews seconded the motion and it passed unanimously.

**9. CONSIDERATION OF BOARD'S COMMENT LETTER TO CALEPA REGARDING ENVIRONMENTAL JUSTICE**

Seena Hoose, speaking as a member of the Public, addressed the Board on this Agenda item. She stated that this letter was exactly what the Board should be doing, and strongly supported the letter. She suggested that there should be recognition in the letter that this Board has taken enforcement action on cases that involved environmental justice in the past. She noted that there was significant expense and stress to individuals who could not afford the costs associated with the bad work performed by unlicensed practitioners of geology.

Mr. Sweeney stated that the draft letter that was in the Board packet had already been revised by the Board several times before being presented to the Board at this meeting.

Dr. Matthews indicated that he was a proponent of a much stronger letter than the one being presented today, but understood that the language in the letter before the Board was a more conciliatory act by the Board to CalEPA. Bill Black made the motion that the letter be signed by all Board Members, with Dr. Matthews seconding the motion. The motion passed unanimously. The letter was then signed by all Board Members present and then faxed and mailed to CalEPA.

Ms. Hoose stated that she is in favor of posting enforcement case summaries on the web in that the posted analyses of the enforcement actions educate licensees of the current standards of practice.

**10. UPDATE ON CALIFORNIA UNIFIED PROGRAM AGENCY (CUPA) LETTER OF DECEMBER 2, 2002 AND THE BOARD'S RESPONSE**

Seena Hoose discussed the fact that the letter from CUPA's December 2, 2002 referred to the procedures followed by San Diego County, which the Board concurs with. Therefore, she felt that the letter was addressing a problem that didn't exist.

Paul Sweeney indicated that there has been no further response to the Board's letter written last December, but that Justin Malan, Executive Director of CUPA had been in attendance at the Board's Practice of Geology Working Group meetings, and was working with the Board on the issues addressed in their December 2, 2002 letter.

Therefore, the Board took no action on this agenda item.

## **11. LEGISLATIVE COMMITTEE REPORT**

J. C. Isham, Chair, Legislative Committee: Senate Bill 1079 (Figueroa) was signed by Governor Davis and will become law on January 1, 2004. This bill reduces the experience requirement necessary for admittance into the Board's Registered Geologist licensing examinations to three years with a Bachelor's degree in Geology and to two years with either a Master's degree or Ph.D. in Geology.

Senate Bill 363 (Figueroa) was on the Governor's desk awaiting his signature at the time of the Board meeting. (The bill was signed in early October). This bill increases the renewal fees for all four licenses issued by the Board. It will become effective on January 1, 2004.

The Board discussed the possibility of allowing the ASBOG Fundamentals of Geology (FG) examination as a type of "Geologist in Training" examination that could be administered to individuals once the Board determined that they were qualified to do so.

Dr. Matthews recommended that the Board send a brochure to all of the Universities discussing academic requirements necessary for licensure by the Board.

Craig Copelan suggested that the Examination Committee further explore the Geologist in Training (GIT) issue and the use of the ASBOG Fundamentals of Geology examination for that purpose. Tom Crosby of the TAC indicated that he thought that the GIT was a great idea. Craig Copelan directed Mr. Sweeney to let the Examination Committee look at the existing brochures and recommend changes to the Board at the next meeting about suggested changes to them based on the new legislatively mandated requirements. Tracy Ferrel of OER recommended that the brochures also mention the examination planning process that is involved in creating the examinations, including the occupational analyses and the item writing workshops. Tracy Ferrel also indicated that she would work with the Executive Officer in getting the examination plans on the Board's website.

Dr. Matthews moved that the Geologist in Training aspect of preparing

students for licensure, including the desired amount of field geology, be assigned to the Examination Committee for a recommendation to be made to the Board, Mr. Schmidt seconded it and the motion passed unanimously.

This meeting is the last one for J.C. Isham to serve as Legislative Committee Chair, and the Board thanked him for his long and productive service to the Board and to the public.

## **12. EXAMINATION COMMITTEE REPORT**

Paul Sweeney gave the report on behalf of former Committee Chair Scott Hector, who was termed out in June. The Board's licensing examinations on March 7, 2003, went very well. Attendance was strong and there were no administrative problems. A handout displaying the attendance and passing rates was distributed. In the opinion of the Executive Officer and Tracy Ferrel, Chief of the Department of Consumer Affairs Office of Examination Resources, the results were practically ideal for licensing examinations.

Mr. Sweeney and Ms. Ferrel spoke briefly about cooperative licensure with the States of Washington and Oregon. Ms. Ferrel indicated that both states have met all of California's requirements for cooperative licensure. Therefore, a Certified Engineering Geologist (CEG) and/or a Certified Hydrogeologist (CHG) from Washington who meets all of California's requirements will be allowed to have a CEG and/or CHG license from California. Oregon CEG's (they do not have a CHG license) may qualify for the issuance of a California CEG within the same parameters.

## **13. TECHNICAL ADVISORY COMMITTEE REPORT**

Executive Officer Paul Sweeney gave the report on behalf of Tony Sawyer, Chair, Technical Advisory Committee (TAC).

Paul Sweeney and George Dunfield of Board staff and Trinda Bedrossian of the California Geological Survey attended a meeting with the NCRWQCB staff in Santa Rosa on August 22, 2003 to discuss forest practice issues and the practice of geology.

Ted Cobb, Assistant Chief Counsel for the State Water Resources Control Board (SWRCB) and Frank Reichmuth, Assistant Executive Officer of the North Coast Regional Water Quality Control Board (NCRWQCB) addressed the Board about the proposed letter from the Board to the NCRWQCB dealing with the Forest Practice issue.

Bill Short of the California Geological Survey indicated that a lot of the geologic portion of Timber Harvest Plans that are submitted to his

department for review are substandard, in part, perhaps, because they are prepared by individuals who are not licensed to practice geology in California. His department has requested the input of both the State Mining and Geology Board (SMGB) and the licensing Board through a Forest Practices Technical Advisory Committee.

John Parrish, Executive Officer of the SMGB, indicated that the State Geologist, Jim Davis, had requested assistance from his Board on this issue. The Forest Practice TAC consisted of six licensed individuals from private industry who recommended that licensure from the Board be a key component of the geologic portion of Timber Harvest Plans.

Frank Reichmuth of the NCRWQCB indicated a willingness to cooperate with all of the involved agencies (CGS, SMGB, SWRCB, BGG) and expressed his satisfaction with the new draft letter. He indicated that his office was working on a permanent way to have appropriately licensed individuals in responsible charge for engineering and geologic work that is, in part, being done by unlicensed staff.

Steve Reynolds of the Watershed Restoration Program within CGS indicated that he had reviewed 266 grant proposals that had a geologic component involving large landslide mitigation, road relocation hydrologic alteration of lengthy stream reaches. Only one of these grant proposals involved a licensed professional, and that was the one submitted by CalTrans. These 266 grant proposals accounted for more than \$18 million in grants that were awarded by the Department of Fish and Game (DFG) last year alone. Mr. Reynolds noted that this has been the typical scenario in dealing with geology and the awarding of grants by DFG, and encouraged the Board and the working group to address the licensure issues more stridently.

Dave Parson of NCRWQCB followed up Mr. Reynolds comments with a discussion of bringing his Board into compliance with the Business and Professions Code.

Mr. Parrish mentioned that no geologic or geophysical reports are admitted into evidence by the SMGB unless they have a licensee's stamp on it. Otherwise, they are returned to the author. Mr. Dunfield stated that he would like to see that become the standard of practice in the submittal of all geologic and/or geophysical reports to State agencies. The Board concurred with this statement.

Gary Duke, Legal Counsel to the Board, indicated that he approved of the language in the newest version of the draft letter. The Board approved the amended draft letter for delivery to the NCRWQCB. (Dr. Matthews makes the motion, Claude Fiddler seconds it and the motion passes

unanimously.) This item will be discussed again at the next Board Meeting.

**14. REPORT ON WORKING GROUP ACTIVITIES AND RECOMMENDATION TO THE BOARD ON REDEFINING THE PRACTICE OF GEOLOGY AND GEOPHYSICS**

Mr. Sweeney reported that the working group had met three times over the summer; once in June, July and August, with the sub-working group Public Outreach Committee meeting on Wednesday, September 10, 2003. Mr. Rich Bailey, Chief of the Registered Environmental Assessor (REA) program within the Department of Toxic Substances Control (DTSC), had recommended that the Board for Geologists and Geophysicists share a booth with the REA program at the California Association of Realtors, but then sent an e-mail on September 11, 2003 withdrawing that offer.

The working group's recommendation was to not make any changes to the existing statutory definitions. It was agreed that better outreach to the regulated community would be beneficial in eliminating confusing about when licensure is required when practicing geology (always).

Mr. Sweeney handed out copies of letters sent to all of the CalEPA Boards, Departments and Offices (BDOs) on September 11, 2001 indicating the Board's willingness to work with the BDOs in Public Outreach efforts similar to what the Board is currently doing (two years later).

Board President Craig Copelan indicated that he felt that now was the appropriate time to make significant outreach efforts regarding geologic licensure and the practice of geology with all stakeholder groups.

Mr. Sweeney then indicated that the Public Outreach Group had requested that members of the Board's Technical Advisory Committee (TAC) prepare case studies that showed where licensure would and would not be required. The following seven scenarios were suggested and assignments were made:

Soil Sampling	-	Tom Crosby
Well Installation/construction	-	Seena Hoose
Interpretation of Well Data	-	Brian Hirst
Leachfields	-	JC Isham
Vadose Zone Transport	-	Roy Shlemon
Groundwater	-	Tony Sawyer
Landslides	-	Mike Hart

**15. REPORT FROM BOARD ATTORNEY ON STATUS OF ASSIGNMENTS**



Mr. Duke had nothing to report.

**16. ESTABLISH BOARD MEETING CALENDAR FOR FY 2003-04**

The Board set the following Board meeting dates:

April 23, 2004; July 9, 2004; and November 12, 2004. All meetings will be in Sacramento at the Board's conference room. February 6, 2004 was set as the first Examination Committee meeting for 2004.

**17. EXECUTIVE OFFICER'S REPORT**

Paul Sweeney presented the Budget Report on behalf of Arlene Sakazaki, who is leaving the Department of Consumer Affairs. The Board's funding authority has been reduced from \$1.1 Million to \$780,000. However, the Board's fund condition remains in a surplus situation, and should remain so for at least a year. If SB 363 (Figueroa) is signed into law, then the Board will be able to increase its fees that would inevitably improve the Board's fund condition.

George Dunfield gave the following Enforcement Report: The Enforcement Oversight Committee met on Friday, September 5, 2003 to review closed cases and establish priorities for the Board's Enforcement Unit. The Board issued a Citation and Fine of \$2,500.00 to Ms. Christine Brown, Registered Geologist No. 4556, Certified Engineering Geologist No. 1688, for violation of §7860(b) of the Business and Professions Code.

The Citation and Order of abatement issued to Ms. Brown read in part "The standard of care of a Registered Geologist or Board certified specialty working under similar circumstances, requires that a reasonable professional maintain adequate responsible charge of subordinate staff in order to ensure that stated and certified scopes of work are accurately completed and depicted (in this case, environmental groundwater monitoring well destructions should have been adequately completed and documented)."

The Board issued a Citation and Fine of \$2,500.00 to Mr. Franklin Goldman, Registered Geologist No. 4557, Certified Hydrogeologist No. 466, for violations of §7860(b) of the Business and Professions Code and §3065(a)(2) and §3065(b) (Board Code of Professional Standards) of Title 16, California Code of Regulations. The Citation and Order of abatement issued to Mr. Goldman read in part "The standard of practice of a Registered Geologist or Certified Hydrogeologist working under similar circumstances requires that a reasonable professional submit an organized site conceptual model of geologic and hydrogeologic conditions that factually represents geologic

datum so that reasonable opinions, conclusions and recommendations can be supported and logically presented.”

The Board issued a Citation and Fine of \$2,500.00 to Mr. Ron Barto, Registered Geologist No. 3356, Certified Engineering Geologist No. 966, for violation(s) of Business and Professions Code §7860 (acts of misrepresentation in professional practice), §7831 (professional practice with an expired license), §7832 (person practicing or offering to practice geology subject to provisions of Geologist and Geophysicist Act).

The Citation and Order of abatement issued to Mr. Barto read in part “The standard of care of a Board licensed Registered Geologist or Board certified specialty working under similar circumstances, requires that Board certified licensee maintain an appropriate and current license when rendering and certifying geologic, hydrogeologic or geophysical interpretations for documents that the public may reasonably expect to rely upon or be affected thereby.”

The Board issued a Citation and Fine of \$2,000.00 to Mr. Gary Vargas, Registered Geologist No. 6434, Certified Hydrogeologist No. 441, for violations of §7860(b) and 7860(c) of the Business and Professions Code and §3065(a)(2), 3065(b)(4) and 3065(b)(8) of Title 16, California Code of Regulations.

The Citation and Order of abatement issued to Mr. Vargas read in part “The standard of practice of a Registered Geologist or Certified Hydrogeologist conducting a site environmental evaluation under similar circumstances, requires that a reasonable professional complete analysis in accordance with the local jurisdictional requirements for such reporting, in this case the County of San Diego Site Assessment and Mitigation Program manual (SAM Manual) which specify procedures for environmental site characterization in San Diego County. Mr. Vargas’s apparent failures to clearly and accurately depict the lateral and vertical extent of constituents of concern at the site departs from the standard of practice of a registered geologist or certified hydrogeologist and therefore constitutes professional negligence and/or incompetence. Further, Title 16 CCR sections 3065(b)(4) and 3065(b)(8) state that a registrant shall only express opinions that have a basis in fact or experience and that a registrant shall not misrepresent data and its relative significance in any geologic or geophysical report, respectively.”

The Board for Geologists and Geophysicists (Board) had previously issued a Citation and Fine of \$2,500.00 to Ms. Barbara Moed, on September 27, 2002 for violation of §7872(a) of the Business and Professions Code (unlicensed professional practice of geology). The Boards webpage posting was amended to read:

“Barbara Moed recently completed all Board requirements for licensure as a Registered Geologist and was issued Registered Geologist Number 7529 on May 22, 2002.” indicating Ms. Moed’s compliance with the requirements of the Business and Professions Code while conducting professional environmental assessment work.

Continued to work cooperatively and as a resource with several county environmental health departments to identify and correct instances of potential unlicensed practice of geology.

Connected the DCA’s CAS enforcement database to the Board’s webpage to present closed the enforcement actions against licensees for the benefit of the public.

The DCA Division of Consumer Affairs Division of Investigation (DOI) CLAB system has not been functional due to inaccurate data management. The Board will be notified when the system is effective.

Worked cooperatively and acted as a resource for the Chief of State Water Resources Control Board (SWRCB) Underground Storage Tank Cleanup Unit to identify processes by which contracted professional geologic work completed within the SWRCB’s Local Oversight Program (LOP) is completed under appropriate licensed responsible charge (for progress update see attached e-mail entitled “SWRCB UST Cleanup Unit Management and Other Responses to BGG Enforcement Actions”, dated July 31, 2003).

Paul Sweeney gave the rest of the Executive Officer’s report, which included notifying the Board that the Board’s website had been completely upgraded to minimize “nesting” and to make the site compatible with other sites within the State of California government system. The Board also now has the new domain claim to the following web address: [www.geology.ca.gov](http://www.geology.ca.gov).

Tom Ross, Board Member, created the opportunity for a radio interview by Paul Sweeney on Sacramento radio station KSEG’s program “The Public File” which is now available via an MP3 file on the Board’s website.

Mr. Sweeney briefly spoke about recent Public Outreach events and the plans to update all of the Board’s publications to reflect the changes made to the Board’s academic and experience requirements by SB 1079 (Figueroa).

Board brochures and other literature were mailed to all geology, geophysics and earth sciences departments within colleges and universities in California in late August for distribution to the faculty and the student populations.

The Board directed Mr. Sweeney to attend the California Association of Realtors Annual Meeting in San Diego in late September to better inform the realtor community about the need for geologic licensure whenever geologic work/assessment needs to be performed during a prospective real estate transaction. They also directed him to attend the California Environmental Health Association's conferences in Concord in October and San Diego in November.

Mr. Sweeney gave a summary of his last five years as Executive Officer for the Board.

**18. DISCUSSION OF PERSONNEL MATTERS, EXAMINATION PROCEDURES AND RESULTS, AND PENDING LITIGATION**

The Board adjourned to Closed Session as authorized by subsections (a)(1) and (e)(1) of section 111126 of the Government Code.

**19. REPORT ON RESULTS OF CLOSED SESSION**

Mr. Copelan reported that during Closed Session, the Board gave Mr. Sweeney an Outstanding Performance Review for his work during the last year.

The Board also considered a Superior Court of the State of California for the County of Orange Case No. 02CC17018.

The Board also directed the Executive Officer to restart posting enforcement actions on the Board's website.

**20. ANNOUNCEMENTS/ACTIVITIES OF BOARD MEMBERS**

There were no announcements.

**21. ADJOURN MEETING**

Craig Copelan adjourned the meeting at 2:35 PM.

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**CRAIG A. COPELAN, P.E., BOARD PRESIDENT**

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**PAUL SWEENEY, Executive Officer**

**Date Approved:**